

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION**

Case No. 7:16-cv-30

BONNIE PELTIER, as Guardian
of A.P., a minor child, et al.;

Plaintiffs,

V.

CHARTER DAY SCHOOL, INC., et al.;

Defendants.

**[PROPOSED] FINAL
JUDGMENT UNDER RULE
54(b), INCLUDING
DECLARATORY JUDGMENT
AND PERMANENT
INJUNCTION**

Plaintiffs, three girls represented by their guardians ad litem, brought the above-captioned action to challenge the discriminatory uniform policy (“the Uniform Policy”) at Charter Day School (“CDS”). The Uniform Policy establishes a dress code requiring girls to wear skirts to school while allowing boys to wear shorts or pants (“the Skirts Requirement”). The suit alleges that the Skirts Requirement violates the Equal Protection Clause of the United States Constitution, pursuant to 42 U.S.C. § 1983, and Title IX of the Education Amendments of 1972. DE 13 ¶¶ 147-166. The suit further alleges that the Skirts Requirement violates the Equal Protection Clause of the North Carolina Constitution and that its enforcement breaches two contracts. *Id.* ¶¶ 167-189. Both parties filed cross-motions for summary judgment on all claims. DE 150, 159, 170, 177, 184.

By Decision and Order dated March 28, 2019, this Court granted Plaintiffs' Motion for Summary Judgment on their Equal Protection Clause claim and granted Defendants' Motion for Summary Judgment on Plaintiffs' Title IX claim. DE 216 at 17, 33. The Court denied without prejudice the parties' cross-motions for summary judgment on the state constitutional and breach

of contract claims, holding that they could be refiled, if appropriate, with additional briefing in support. *Id.* at 34-35.

The Defendants moved for certification of interlocutory appeal of this Court's ruling on Plaintiffs' Equal Protection Claim, or in the alternative, for entry of partial final judgment pursuant to Federal Rule of Civil Procedure 54(b) on that claim. DE 225, 226. Defendants further sought a stay of further proceedings pending an intended appeal. *Id.* Plaintiffs opposed interlocutory appeal and instead sought entry of partial final judgment pursuant to Rule 54(b) as to both the Equal Protection and Title IX claims, and issuance of declaratory judgment and an injunction as to the Equal Protection claim.

Accordingly, and pursuant to this Court's summary judgment order of March 28, 2019, it is hereby

ORDERED that Defendant's motion for interlocutory appeal, DE 225, is DENIED; and it is further

ORDERED, ADJUDGED, AND DECREED that pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, upon motion by both parties, final judgment is hereby entered for Plaintiffs on their Equal Protection claim; and it is further

ORDERED, ADJUDGED, AND DECREED upon Plaintiffs' motion that final judgment is also entered for Defendants on Plaintiffs' Title IX claim; and it is further

ORDERED, ADJUDGED, AND DECLARED as a matter of law that Defendants' action of establishing and enforcing a school uniform policy requiring that girls wear skirts, and prohibiting them from wearing pants or shorts, violates Plaintiffs' rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, U.S. Const. Am. 14, Sec. 1 and 42 U.S.C. § 1983; and it is further

ORDERED, ADJUDGED, AND DECREED that Defendants, and all those acting in concert with them, are hereby permanently ENJOINED from enforcing the provision of their school uniform policy requiring that girls wear skirts and prohibiting them from wearing pants or shorts; and it is further

ORDERED, ADJUDGED, AND DECREED that Plaintiffs are awarded the sum of one dollar (\$1.00) each in nominal damages; and it is further

ORDERED, ADJUDGED, AND DECREED that Plaintiffs are awarded costs pursuant to Federal Rule of Civil Procedure 54(d)(1).

The above order constitutes final judgment and is appealable pursuant to 28 U.S.C. § 1291.

Defendants' motion for a stay of proceedings is further DENIED.

This Court shall retain jurisdiction over Plaintiffs' remaining claims and for purposes of enforcement of this Order.

This ____ day of _____, 2019.

Malcolm J. Howard
Senior United States District Judge